

SEP 20 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Terry et al.

Application No. 09/365,349

Filed: July 30, 1999

For: *Heavy Metal Phytoremediation*

Group Art Unit: 1638

Examiner: Ibrahim, Medina

Attorney Docket No. B99-085

CERTIFICATE OF TRANSMISSION

I hereby certify that this copy is being transmitted by facsimile to the
Comm for Patents 703-972-9306 on September 20, 2004.

Signed

Richard Aron Osman
Richard Aron Osman

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entity
extension*

RESPONSE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Examiner Ibrahim:

Thank you for the Office Action dated Apr 20, 2004. Please enter these amendments:

also, *In re Wands* (8 USPQ2d 1400 (Fed Cir 1988), "Even if we were to accept the PTO's 2.8% success rate, we would not be required to reach a conclusion of undue experimentation"; see also, *Atlas Powder Co.*, 224USPQ409,414 (Fed Cir 1994).

For good measure, we provide herewith an expert declaration from a University of California Professor averring to the foregoing. The Declarant/Professor is knowledgeable of the dispositive factual determination of what one skilled in this art would and would not consider undue experimentation

The Examiner is invited to call the undersigned if she would like to amend the claims to clarify the foregoing or seeks further clarification of the claim language.

We petition for and authorize charging our Deposit Account No.19-0750 all necessary extensions of time. The Commissioner is authorized to charge any fees or credit any overcharges relating to this communication to our Dep. Acct. No.19-0750 (B99-085-1).

Respectfully submitted,
SCIENCE & TECHNOLOGY LAW GROUP



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encl. Terminal Disclaimer (1p)
Declaration (2p)

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